



**PATENT**  
Attorney Docket No. 204001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Glorioso et al.

Application No. 09/506,301

Art Unit: 1636

**RECEIVED**

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TECH CENTER 1600/2900

Filed: February 17, 2000

Examiner: G. Leffers, Jr.

For: ADENO-ASSOCIATED VIRAL GENE-  
TRANSFER VECTOR SYSTEM

#10a  
3ta  
3-19-02

**RESPONSE TO OFFICE ACTION**

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Office Action dated November 23, 2001, please enter the following amendments and consider the following remarks.

**AMENDMENTS**

*IN THE CLAIMS:*

Cancel claims 17-20.

Replace the indicated claims with:

1. A recombinant herpes simplex virus (HSV) comprising a rep gene, which comprises a promoter operatively linked to a polynucleotide encoding an adeno-associated virus (AAV) rep polypeptide, wherein the rep polypeptide or the promoter is conditionally active.

2. The recombinant HSV of claim 1, wherein the rep polypeptide is obtained from an AAV rep78, rep68, rep62, or rep40 protein.

3. The recombinant HSV of claim 1, wherein the promoter is an inducible promoter.

4. The recombinant HSV of claim 7, wherein the rep gene is not within the ITR cassette.

5. The recombinant HSV of claim 1, further comprising a cap gene comprising a promoter operatively linked to a polynucleotide sequence encoding an AAV cap polypeptide.

6. The recombinant HSV of claim 10, wherein the cap gene is not within the AAV ITR cassette.